

EXHIBIT 66

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA

Norfolk Division
CASE NO. 2:18CV530

CSX TRANSPORTATION, INC.,
individually and on behalf of NORFOLK
& PORTSMOUTH BELT LINE
RAILROAD COMPANY,
Plaintiffs,

-vs-

NORFOLK SOUTHERN RAILWAY
COMPANY, NORFOLK & PORTSMOUTH
BELT LINE RAILROAD COMPANY,
JERRY HALL, THOMAS HURLBUT,
PHILIP MERILLI, and CANNON MOSS,

Defendants.

Zoom Remote Proceeding
Wednesday, March 17, 2021
9:40 a.m. to 12:43 p.m.

VIDEOTAPED TELECONFERENCE DEPOSITION OF JAY STRONGOSKY

Taken before Robyn Maxwell, RPR, FPR,
RSA, and Notary Public in and for the State of Florida at
Large, pursuant to Notice of Taking Deposition filed in
the above-mentioned cause.
Job No. CS4501152

1 formerly notified CSX of compensation for service
2 failures of \$10.6M for lost business and excessive
3 logistics costs. We have committed to resolving this by
4 the end of February."

5 Q. Thank you, Mr. Strongosky. And so it
6 appears from this paragraph that there were -- there were
7 significant service issues at CMA CGM was currently
8 experiencing as a customer of CSX; is that correct?

9 A. Yes.

10 Q. And is it, you know, at your prior
11 deposition, I believe we talked about some of the service
12 issues associated with CSX's change in railroad model
13 from the hub and spoke model to the precision railroading
14 model. Do you recall that conversation?

15 A. Yes.

16 Q. And are the -- are the service issues
17 described in this paragraph, are they similarly related
18 to the change in CSX's plan -- or strike that.

19 Are -- are the service issues described in
20 this paragraph similarly related to CSX's change to a
21 precision railroading model?

22 A. Yes.

23 Q. Okay. And then, Mr. Strongosky, if you see
24 the next heading, it says, "Business Opportunities". Do
25 you see that?

1 A. Yes.

2 Q. Okay. You can go ahead and read that, the
3 two sentences that follow that, please.

4 A. "CMA will bid out 20,000 to 40,000 units of
5 traffic in 2018 that currently move on the NS under the
6 APL name. This opportunity will help in the service
7 claim negotiation going forward."

8 Q. So, Mr. Strongosky, at the same time that
9 CMA CGM had these significant service issues with CSX, it
10 was also bidding out additional business that CSX was
11 trying to get?

12 A. Yes, based on this paragraph.

13 Q. Do you recall, Mr. Strongosky, if CSX ended
14 up winning this additional business that CMA CGM was
15 bidding on?

16 A. We did not.

17 Q. Do you -- do you recall --

18 A. Just for -- just for clarity -- just for
19 clarity, CMA offered us the business. CMA was not
20 bidding on the business. CMA offered CSX the ability to
21 bid on the APL business.

22 Q. Thank you. Thank you for that
23 clarification.

24 Do you recall, based on your conversations
25 with CMA CGM at the time, whether the service issues that

1 MR. MCFARLAND: He's not the author of this
2 document. I don't see the relevance. But without
3 waiving, he may answer.

4 A. There was 30,000 loaded units that we were
5 moving on CSX prior to the service issues. Those
6 30,000 units found their way to a destination via
7 different mode. I understood that to be mostly routing
8 Norfolk Southern and intermodal service.

9 BY MR. THORNBURGH:

10 Q. Okay. Thank you, Mr. Strongosky. I
11 believe you mentioned earlier that CSX did reach a
12 settlement agreement with CMA CGM related to the service
13 issues described in this letter; is that correct?

14 A. Yes.

15 Q. Do you recall approximately how much CSX
16 paid CMA CGM to address the service issues described in
17 this letter?

18 A. \$2 million.

19 Q. Thank you. Mr. Strongosky, can you please
20 open up envelope number 3, please.

21 (Defense Exhibit 3 was marked.)

22 A. Okay.

23 BY MR. THORNBURGH:

24 Q. Mr. Strongosky, do you recall this
25 particular email exchange?

1 says, "Lane Comments," is the commentary that's listed
2 there for each of these lanes, that's in reference to the
3 schedule only, correct?

4 A. Yes.

5 Q. Okay. Can you go to the page -- I think
6 hopefully yours are the same as mine, but it's the second
7 page and in the left-hand column, you'll see where it
8 says "Norfolk" and -- under "Origin" and in the next
9 column over under "Destination," I want to talk about the
10 line item starting with "Chicago".

11 A. I see it.

12 Q. And so the first item here is Norfolk,
13 Chicago and then it has the schedule and then the lane
14 comment is "Neutral."

15 Do you see that?

16 A. Yes.

17 Q. Okay. And then for the next one, two,
18 three, four, five, six, seven, the remaining seven
19 Norfolk lanes that are listed here to Cleveland,
20 Columbus, Detroit, Kansas City, Louisville, Sharonville
21 and St. Louis, the lane comments say, "NS Favorable".

22 Do you see that?

23 A. Yes.

24 Q. And so for those lanes, those are -- that
25 indicates that Norfolk Southern has a scheduling

1 advantage or a routing advantage over CSX from Norfolk;
2 is that correct?

3 A. Yes.

4 Q. And then, Mr. Strongosky, if you go just
5 above those entries I just referenced to you where it
6 says, "New York", several entries for New York. Do you
7 see those?

8 A. Yes.

9 Q. Okay. And there are several on here, I
10 believe, from New York; one, two, three, four, five that
11 say, "CSX Favorable".

12 Do you see that?

13 A. Yes.

14 Q. And then there are one, two, three, four,
15 five that say CSX -- I'm sorry. One, two, three, four
16 that say, "CSX Service Only".

17 Do you see that?

18 A. Yes, I see, "CSX Service Only".

19 Q. Okay. Mr. Strongosky, in your discussions
20 with Cosco, given that NS has a favorable schedule for --
21 for most of the Norfolk lanes, did you have any
22 discuss -- discussion with them about shifting any of
23 their containers that were currently going through
24 Norfolk to instead go through the Port of New York, New
25 Jersey?